

Message Text

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ORIGIN L-02

INFO OCT-01 EUR-12 ISO-00 OES-03 CEQ-01 EPA-01 DOTE-00

HUD-01 NASA-01 NSF-01 AEC-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-01 INR-07

INT-05 NSAE-00 NSC-05 OMB-01 PM-03 SAM-01 SP-02 SS-15

STR-01 TRSE-00 FRB-03 FEA-01 INRE-00 NSCE-00 SSO-00

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ERDA - MR. DENNY(SUBS)

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TO USMISSION OECD PARIS IMMEDIATE

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E.O. 11652: N/A

TAGS: TECH, ENRG

SUBJECT: DRAFT IEA IMPLEMENTING AGREEMENTS

OECD FOR BLOOM AND BOSWORTH

1. UPON REVIEW OF PATENT ANNEX TO DRAFT IEA IMPLEMENTING
AGREEMENTS ON COAL TECHNOLOGY AND NUCLEAR SAFETY IN CON-
NECTION WITH ENERGY R&D CONSORTIUM, DEPT CONSIDERS PROVI-
SIONS FROM ARTICLE V OF FEBRUARY 14 DRAFT TO BE PREFERABLE
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TO ANNEX IN FEBRUARY 18 DRAFT. HOWEVER, ARTICLE V OF

FEBRUARY 18 DRAFT SHOULD REMAIN THE SAME AND FEBRUARY 18 DRAFT SHOULD BE USED WITH NEW ANNEX. THEREFORE, U.S. REPS SHOULD SIMPLY SUBSTITUTE FOLLOWING TEXT FOR ENTIRE ANNEX OF FEBRUARY 18 DRAFT:

(1) THE PARTIES SUPPORT THE WIDEST POSSIBLE DISSEMINATION AND EXCHANGE OF SCIENTIFIC AND TECHNICAL INFORMATION RESULTING FROM COOPERATIVE ACTIVITIES UNDER THIS SUBSIDIARY AGREEMENT. SUCH INFORMATION MAY BE MADE AVAILABLE TO THE PUBLIC BY EITHER PARTY THROUGH CUSTOMARY CHANNELS AND IN ACCORDANCE WITH THE NORMAL PROCEDURES OF PARTICIPATING AGENCIES.

(2) CERTAIN RESULTS OF THESE COOPERATIVE ACTIVITIES MAY

CONTAIN INDUSTRIAL PROPERTY, THE RIGHT TO WHICH MUST BE PROTECTED IN ACCORDANCE WITH APPLICABLE LAWS. INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE, SUCH AS TRADE SECRETS, INVENTIONS, PATENT INFORMATION, AND KNOW-HOW, MADE AVAILABLE HEREUNDER, BUT ACQUIRED BY ANY PARTY OR PRIVATE ORGANIZATION PRIOR TO OR OUTSIDE THE COURSE OF THESE ACTIVITIES, AND WHICH BEAR A RESTRICTIVE DESIGNATION, SHALL BE RESPECTED AND SHALL NOT BE USED FOR COMMERCIAL PURPOSES OR MADE PUBLIC WITHOUT THE CONSENT OF THE ORIGINATING PARTY OR ORGANIZATION, EXCEPT AS MAY BE REQUIRED BY THE LAWS OF A RECEIVING PARTY AND PARAGRAPH (3) BELOW, WHERE SUCH INDUSTRIAL PROPERTY:

(A) IS OF A TYPE CUSTOMARILY HELD IN CONFIDENCE BY COMMERCIAL FIRMS;

(B) IS NOT GENERALLY KNOWN OR PUBLICLY AVAILABLE FROM OTHER SOURCES;

(C) HAS NOT ALREADY BEEN MADE AVAILABLE BY THE ORIGINATING PARTY OR OTHERS WITHOUT AN AGREEMENT CONCERNING ITS CONFIDENTIALITY; OR

(D) IS NOT ALREADY IN THE POSSESSION OF A RECEIVING PARTY OR ITS CONTRACTORS OR DOES NOT COME INTO THEIR POSSESSION FROM ANOTHER SOURCE.

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(3) EACH PARTY SHALL USE ITS BEST EFFORTS TO MAKE AVAILABLE TO THE OTHER PARTY OR OTHER PARTIES SUCH RELEVANT INDUSTRIAL PROPERTY OF A PROPRIETARY NATURE AS MAY REASONABLY BE NECESSARY TO A SPECIFIC COOPERATIVE PROJECT. SUCH INDUSTRIAL PROPERTY MAY BE DISSEMINATED WITHOUT THE PRIOR CONSENT OF THE ORIGINATING PARTY OR PRIVATE ORGANIZATION AS FOLLOWS:

(A) TO PERSONS WITHIN OR EMPLOYED BY A RECIPIENT PARTY, AND TO OTHER CONCERNED GOVERNMENT AGENCIES OF THE RECIPIENT PARTY; AND

(B) TO PRIME OR SUBCONTRACTORS OF A RECIPIENT PARTY FOR USE ONLY WITHIN THE FRAMEWORK OF ITS CONTRACT(S) WITH THE RESPECTIVE PARTY ENGAGED IN WORK RELATING TO THE SUBJECT MATTER OF THE PROJECT AGREEMENT PROVIDED THAT THE INFORMATION (B) ABOVE SHALL BEAR A MARKING RESTRICTING DISSEMINATION OUTSIDE THE RECIPIENT'S ORGANIZATION WITHOUT PRIOR WRITTEN APPROVAL OF THE ORIGINATING PARTY.

(4) EACH PARTY WILL USE ITS BEST EFFORTS TO ENSURE THAT THE DISSEMINATION OF PROPRIETARY DATA RECEIVED UNDER THIS SUBSIDIARY AGREEMENT IS CONTROLLED AS PRESCRIBED HEREIN.

(5) AS TO RIGHTS IN PATENTS OWNED OR CONTROLLED BY A PARTY AT THE COMMENCEMENT OF A PARTICULAR COOPERATIVE ACTIVITY, OR OWNED OR CONTROLLED BY A PARTY AS THE RESULT OF RELATED BUT INDEPENDENT CONCURRENT WORK, EACH PARTY SHALL AGREE TO GRANT A ROYALTY-FREE LICENSE TO THE OTHER PARTY OR OTHER PARTIES UNDER PATENTS THAT BEAR A DIRECT RELATIONSHIP TO THOSE COOPERATIVE ACTIVITIES, FOR USE DURING THE PERIOD OF THE COOPERATIVE ACTIVITIES ONLY.

(6) AS TO ANY INVENTION SUBJECT TO PATENTS ORIGINATED IN CONNECTION WITH EXCHANGES OF PERSONNEL OR EQUIPMENT OR JOINT WORK EFFORTS OR EXPERIMENTS UNDER THIS SUBSIDIARY AGREEMENT, THE FOLLOWING RULE SHALL APPLY:

(A) EACH PARTY SHALL DETERMINE THE ALLOCATION OF ALL RIGHTS LIMITED OFFICIAL USE

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TO SUCH INVENTION IN ITS OWN COUNTRY SUBJECT TO A NON-EXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO THE OTHER PARTY WITH THE RIGHT TO GRANT SUB-LICENSES UNDER SUCH INVENTIONS; AND

(B) THE PARTY IN WHOSE COUNTRY THE INVENTION IS ORIGINATED SHALL HAVE THE FIRST OPTION TO ACQUIRE ALL RIGHTS, TITLE, AND INTEREST IN AND TO SUCH INVENTIONS IN THIRD COUNTRIES, SUBJECT TO A NON-EXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO THE OTHER PARTY OR OTHER PARTIES WITH THE RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTIONS.

(7) AS TO ANY INVENTION SUBJECT TO PATENTS ORIGINATED DURING THE PERIOD OF THIS SUBSIDIARY AGREEMENT WHILE IN ATTENDANCE AT MEETINGS, CONSULTATIONS, SEMINARS, OR PANELS,

OR WHEN EMPLOYING INFORMATION WHICH HAS BEEN COMMUNICATED UNDER THIS SUBSIDIARY AGREEMENT BY ONE PARTY TO ANOTHER, ORIGINATED IN CONNECTION WITH SEPARATE BUT COMPLEMENTARY PROJECTS, THE PARTY OF THE INVENTOR SHALL ACQUIRE ALL RIGHT, TITLE, AND INTEREST IN AND TO SUCH INVENTIONS, SUBJECT TO A NON-EXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE TO THE OTHER PARTY OR OTHER PARTIES WITH THE RIGHT TO GRANT SUBLICENSES UNDER SUCH INVENTIONS.

(8) THE PARTIES SHALL PROVIDE ALL NECESSARY COOPERATION FROM ITS INVENTORS TO CARRY OUT THE PROVISIONS OF PARAGRAPHS (6) AND (7) ABOVE.

(9) EACH PARTY SHALL ASSUME THE RESPONSIBILITY TO PAY

AWARDS OR COMPENSATION REQUIRED TO BE PAID TO ITS OWN

NATIONALS IN ACCORDANCE WITH ITS OWN LAWS.

(10) COPYRIGHTS OF ANY PARTY OR OF COOPERATING ORGANIZATIONS AND PERSONS SHALL BE ACCORDED TREATMENT CONSISTENT WITH INTERNATIONALLY RECOGNIZED STANDARDS OF PROTECTION.

(11) AS TO COPYRIGHTS OWNED OR CONTROLLED BY A PARTY AT THE COMMENCEMENT OF PARTICULAR COOPERATIVE ACTIVITIES OR ACQUIRED BY A PARTY AS THE RESULT OF RELATED INDEPENDENT CONCURRENT WORK, EACH PARTY SHALL AGREE TO GRANT TO THE OTHER PARTY OR OTHER PARTIES ROYALTY-FREE LICENSE TO LIMITED OFFICIAL USE

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REPRODUCE COPYRIGHTED MATERIALS HAVING A DIRECT RELATIONSHIP TO THOSE COOPERATIVE ACTIVITIES FOR USE IN THOSE COOPERATIVE ACTIVITIES ONLY.

(12) ANY MATERIAL WHICH MAY BE SUBJECT TO COPYRIGHT DEVELOPED IN ANY COOPERATIVE ACTIVITY MAY BE COPYRIGHTED. A PARTY SECURING A COPYRIGHT OR RIGHTS THERETO SHALL GRANT A ROYALTY-FREE LICENSE TO THE OTHER PARTIES TO REPRODUCE THE COPYRIGHTED MATERIAL. MAW

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